

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) Art Unit: 1642
)
LONGENECKER, Michael B.) Examiner: FETTEROLF, B.
)
Serial No.: 10/594,992) Washington, D.C.
)
Filed: November 16, 2006) May 14, 2009
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For: MUCINOUS GLYCOPROTEIN) Docket No.: LONGENECKER=7A
(MUC-1) VACCINE)
) Confirmation No.: 5786

ELECTION WITH TRAVERSE

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S i r :

1. In response to the restriction requirement mailed January 27, 2009, applicants elect group I (method of treating NSCLC), with partial traverse.

We accede to the restriction between NSCLC and prostate cancer, however, traversal is necessary because claim 1 is mischaracterized. We note that claim 1 encompasses variants of SID1 and 2, as well as SID1 and 2 per se as stated by the restriction.

We traverse, for example, to preserve our rights to limit the claimed invention of groups 1 and 2 to BLP25 (cp. claims 13, 14, 18, 19), which is not identical to Morse's BLP24.

Moreover, in view of the limitation of claim 1 to treatment of NSCLC stage IIIB locoregional, i.e., no malignant pleural effusion, which is not taught by Morse, we believe that Morse's teaching of BLP24¹ vs. NSCLC is not decisive and in particular does not necessitate limitation to a particular SID.

2. In response to the species restriction set forth on page 11 (and prompted by claim 11), we elect species (c) (nodal

¹ Which is 24 a.a. long, not 25 a.a. like SID1 or 27 a.a. like SID2.

stage). The examiner concedes that claims 1 and 7 are generic. Claim 7 requires "step (c) evaluating the treated individual". Claims 8-11 address particular methods of evaluation. We believe that all claims except 8-11 are generic, and that claims 8-11 nonetheless read on the elected species.

The species restriction is traversed on the ground that one or more generic claims (e.g., 1) are allowable.

Respectfully submitted,

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